

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF NURSING

IN THE MATTER OF THE SUSPENSION :  
OR REVOCATION OF THE LICENSE OF :

Kinshasa M. Smith, C.H.H.A. :  
Certificate No. 26NH12516400 :

HOMEMAKER HOME HEALTH AIDE :  
IN THE STATE OF NEW JERSEY :

APR 29 2016  
N.J. BOARD OF NURSING  
ADMINISTRATIVE ACTION

\* FINAL ORDER OF  
DISCIPLINE

May 2, 2016 **FINAL** 5/2/16

This matter was opened to the New Jersey State Board of Nursing (the "Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law are made:

**FINDINGS OF FACT**

1. Kinshasa M. Smith ("Respondent") is a certified homemaker-home health aide in the State of New Jersey holding certificate number 26NH12516400 and has been a licensee at all times relevant hereto.

2. Upon receipt of a flagging notice indicating that Respondent was arrested on February 22, 2014 by the Asbury Park Police Department for violation of N.J.S.A. 2C:35-5, Manufacture/Distribute Controlled Dangerous Substance, N.J.S.A. 2C:35-10A(3), Possession of Marijuana/Hash Over, N.J.S.A. 2C:35-7, Controlled Dangerous Substance on School Property, N.J.S.A.

2C:35-7.1, Possess/Distribute Controlled Dangerous Substance Within 500 Feet of Public Property, and N.J.S.A. 2C:36-2, Possession of Drug Paraphernalia, the Board sent a letter of inquiry, requesting certain information and submission of documents, to Respondent's address of record in Neptune, New Jersey, via regular and certified mail on or about March 4, 2014. A response was due within twenty (20) days. The regular mailing was not returned; the certified mailing was returned as unclaimed.

3. On March 21, 2014, the Board received a letter from Respondent indicating that another individual (not named) was responsible for the above referenced violations, and would take responsibility at a later court date. Respondent's letter did not contain any of the information requested by the Board.

4. Respondent failed to provide any further information and did not fully or substantially respond to the Board's request for information.

#### **CONCLUSIONS OF LAW**

Respondent's failure to respond to the Board's request for information constitutes a failure to cooperate with a Board investigation, in contravention of N.J.A.C. 13:45C-1.2 and 1.3, which the Board deems professional misconduct pursuant to

N.J.S.A. 45:1-21(e), subjecting Respondent to disciplinary action pursuant to N.J.S.A. 45:1-21(h).

#### DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline seeking a suspension and a two hundred dollar (\$200) civil penalty was entered on November 26, 2014. Copies were forwarded via regular and certified mail to Respondent at the last known address on file with the Board. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30<sup>th</sup> business day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefore.

Respondent replied to the Provisional Order by belatedly providing all the information requested in the Board's original letter of inquiry, including documentation indicating that the criminal charges were dismissed.

The Board reviewed Respondent's submissions and determined that further proceedings were not necessary and that no material

discrepancies had been raised. The Board was not persuaded that the submitted materials merited further consideration, as Respondent did not dispute the findings of fact or conclusions of law. However, inasmuch as Respondent provided the information originally requested, the Board determined that suspension was no longer warranted. Further, the Board determined that Respondent's failure to respond to the original inquiry, thereby necessitating the filing of the Provisional Order of Discipline, and review of Respondent's subsequent reply months later, warrants imposition of a two hundred dollar (\$200) civil penalty.

**ACCORDINGLY, IT IS on this 2nd day of may, 2016,**  
**ORDERED that:**

1. Respondent is assessed a civil penalty in the amount of two hundred dollars (\$200). Payment shall be made by certified check, bank cashier check, or money order payable to "State of New Jersey," or by wire transfer, direct deposit, or credit card payment delivered or mailed to State Board of Nursing, Attention: Twalema Khonje, P.O. Box 45010, Newark, New Jersey 07101. Any other form of payment will be rejected and will be returned to the party making the payment. Payment shall be made no later than twenty-one (21) days after the date of filing of this Final Order of Discipline. In the event

Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

NEW JERSEY STATE BOARD OF NURSING

By: \_\_\_\_\_

*Patricia Murphy*  
Patricia Murphy, PhD, APN  
President